

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Group Art Unit 2421

In re

Patent Application of

Kenneth Austin

Application No. 09/762,740

Confirmation No. 7487

Filed: June 15, 2001

Examiner: Dominic D. Saltarelli

"INTERACTIVE TELEVISION
CONTROL/OPERATING SYSTEM"

**DECLARATION OF KENNETH AUSTIN IN SUPPORT OF
PETITION FOR REVIVAL OF AN APPLICATION FOR
PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

1. My legal name is Kenneth Austin. I am the sole inventor and applicant of United States Patent Application No. 09/762,740, which was filed on June 15, 2001.
2. On September 27, 2005, the USPTO issued a restriction requirement identifying five sets of claims in the application. I elected Group V, claims 140-165 for further prosecution, and I also traversed the restriction requirement because the claims of the application are so linked that they form a single inventive concept. Since all the claims relate to a single inventive concept, it has always been my goal to prosecute the unelected claims of the application in one or more divisional applications.
3. My patent application went abandoned in January of 2009, when I did not respond to an Office action dated October 20, 2008. However, during that time and until the beginning

of 2012, it was my understanding that I could file a divisional application to pursue those claims that were not initially selected for prosecution. In other words, I never appreciated the fact that by not responding to the Office action, the pending application would become abandoned in the sense that no divisional applications can be filed. Since the beginning of 2012 I have been working diligently to reinstate this application and to file a divisional application. In particular, I am working with the law firms of Marks & Clerk LLP in England and Michael Best & Friedrich LLP in the U.S. to resume prosecution of the unelected claims of my application.

4. Because I never appreciated the fact that not responding to the Office action would prohibit me from filing subsequent divisional applications directed to the nonelected claims, the entire delay in filing the required reply to the Office action of October 20, 2008, from the due date of the reply until the filing of this petition under 37 CFR 1.137(a), was unavoidable.
5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 3 APRIL 2012



Kenneth Austin